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Makoto Akune

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LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK  
600 SOUTH AVENUE WEST  
WESTFIELD, NJ 07090

EXAMINER

DAILEY, THOMAS J

ART UNIT

PAPER NUMBER

2152

MAIL DATE

DELIVERY MODE

06/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/666,496

Applicant(s)

AKUNE, MAKOTO

Examiner

Thomas J. Dailey

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-27 are pending in this application.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7, 10-16, 18-25, and 27 rejected under 35 U.S.C. 102(e) as being anticipated by Kidder (US Pat. 6,363,413).
4. As to claim 1, Kidder discloses a data distribution method (Abstract) comprising the steps of:  
classifying information for downloading content transmitted from a user  
(column 7, lines 4-7, user requests a video clip, i.e. the data that is received from the user is classified as a request for a particular video clip, also along with the request for the clip information regarding the maximum effective transmission bandwidth is determined (column 7, lines 18-22));

selecting one of a plurality of pieces of content data having respective predetermined formats based on the classified information for downloading content and sending the selected content data to the user when the information for downloading content is classified as indicating downloading of new content data (column 7, lines 7-18, the requested video clip is broken up into multiple bit streams (formats) (e.g. audio streams A1,A2, A3 and video streams V1,V2,V3) and one set of the bit streams (audio stream A1 and video stream V2) is selected and transmitted from the server to the user during the first request); and

sending upgrading data to the user when the information for downloading content is classified as indicating downloading of upgrading data associated with content data owned by the user (column 7, lines 36-43, the second user request for the video indicates the bit streams already in possession of the user (A1 and V1) whereupon the server sends the upgrading data (audio stream A2 and video stream V2) that is combined with the previously transmitted data in column 7, lines 50-57 in order to create a higher quality video clip).

5. As to claim 10, Kidder discloses a server comprising:

a storage unit that stores a plurality of pieces of content data having predetermined formats (column 6, lines 42-48, the video clip on the server is broken up into different scalable bit streams (predetermined formats) when transmitted);

a first generating unit for generating content data to be distributed based on data supplied thereto (column 7, lines 7-14, from the video clip audio bit stream A1 and video bit stream V2 are generated);

a second generating unit for generating upgrading data using content data read from the storage unit (column 7, lines 50-57, from the video clip audio bit stream A2 and video bit stream V2 are generated);

a sending and receiving unit to which data output from the first generating unit or from the second generating unit is supplied for sending and receiving data to and from outside the server via a network (column 7, lines 7-14 and column 7, lines 50-57); and

a controller to which information for downloading content received by the sending and receiving unit is supplied for exercising control based on the information for downloading content (column 7, lines 36-46, the user requests the video clip for a second time and based upon information provided in the request (i.e. informing the server that the user already possesses bit streams A1 and V2) the server knows which bit streams to generate during the second iteration),

wherein the controller classifies the information for downloading content, selects one of the plurality of pieces of content data having the predetermined formats based on the information for downloading content (column 7, lines 36-46), and supplies the selected content data to the first generating unit when the information for downloading content is classified as indicating downloading of new content data (column 7, lines 7-14, in response to the first request the first

bit streams are sent), and wherein the controller causes the second generating unit to generate upgrading data when the information for downloading content is classified as indicating downloading of upgrading data associated with content data owned by the user (column 7, lines 36-46, the server is informed that the user owns the first two data streams and therefore generates and sends the second data streams to the user (column 7, lines 50-57)).

6. As to claim 18, Kidder discloses a terminal comprising:

- a sending and receiving unit for sending and receiving data to and from a server via a network (column 7, lines 7-14, the client reads on the terminal);

- a storage unit for storing content data and upgrading data received from the sending and receiving unit (column 7, lines 7-14 and column 7, lines 50-57, where the second data stream reads on the upgrade data);

- a signal processing unit for decoding content data read from the storage unit in accordance with encoding of the content data and for generating content data having a quality higher than a quality of the content data read from the storage unit, based on the content data and upgrading data read from the storage unit (column 7, lines 50-57, the first data stream is read from the cache and combined with the recently received second data stream with the end result being a video clip of higher quality) and

a controller for exercising control as to whether the signal processing unit decodes the content data read from the storage unit or generates the content data having higher quality (column 7, lines 50-57).

7. As to claim 2, Kidder discloses when the information for downloading content is classified as indicating downloading of upgrading data (column 7, lines 35-39), the upgrading data is generated from the content data owned by the user and content data associated therewith among the plurality of pieces of content data, and the upgrading data generated is sent to the user (column 7, lines 39-44).
8. As to claims 3 and 12, Kidder discloses the information for downloading content at least includes information for selecting a piece of content data from the plurality of pieces of content data and information for specifying a format of content data to be downloaded (column 7, lines 35-39), and difference data is generated (column 7, lines 39-44), based on the information for specifying the format (column 7, lines 35-44), from the content data owned by the user and content data associated therewith and the difference data being is sent to the user as the upgrading data (column 7, lines 50-57)
9. As to claims 4 and 13, Kidder discloses the difference data is generated based on the information for specifying the format and information regarding a format used when sending the content data owned by the user (column 7, lines 36-39),

and the information regarding the format is stored as usage-history information (column 7, lines 36-39).

10. As to claims 5 and 14, Kidder discloses the information for downloading content includes selection information indicating either downloading of new content data or downloading of upgrading data and information for specifying a format of content data to be downloaded (column 7, lines 36-39), and whether new content data is to be downloaded or upgrading data is to be downloaded is determined based on the selection information (column 7, lines 39-49).

11. As to claims 6 and 15, Kidder discloses the information for downloading content is classified as indicating downloading of new content data (column 7, lines 7-14), the selected content data is converted into a format based on the information for specifying the format before the selected content data is sent to the user (column 7, lines 10-18).

12. As to claims 7 and 16, Kidder discloses the information for downloading content includes user-specific information and temporary history information is generated based on the information for downloading content based on the user-specific information (column 7, lines 36-39), and wherein usage-history information is updated based on the temporary history information after processing of data received by the user is completed (column 7, lines 36-39).



13. As to claim 11, Kidder discloses the controller reads the content data owned by the user and content data associated therewith among the plurality of pieces of content data from the storage unit and supplies these read-out content data to the second generating unit (column 7, lines 36-44).

14. As to claim 19, Kidder discloses the signal processing unit comprises:

a generating unit for generating content data having a higher quality than a quality of the content data read from the storage unit, based on the content data and upgrading data read from the storage unit (column 7, lines 50-57); and

a decoder for decoding the content data read from the storage unit and supplied to the decoder (column 7, lines 50-57).

15. As to claim 20, Kidder discloses the decoder comprises a first decoder and the generating unit comprises a second decoder for decoding the upgrading data supplied thereto (column 7, lines 50-57).

16. As to claim 21, Kidder discloses a combining unit for combining data output from the first decoder and data output from the second decoder (column 7, lines 50-57).

17. As to claim 22, Kidder discloses the controller activates the first decoder when the content data read from the storage unit is to be played back (column 7, lines 7-14) and activates the first decoder and the second decoder when the content data having the higher quality is to be generated (column 7, lines 50-57).

18. As to claim 23, Kidder discloses the controller sequentially reads the content data and the upgrading data from the storage unit and supplies the content data and the upgrading data to the signal processing unit (column 7, lines 50-57).

19. As to claim 24, Kidder discloses a plurality of buffer memories provided between the storage unit and the signal processing unit, wherein the controller controls switching of the plurality of buffer memories (column 7, lines 50-57).

20. As to claim 25, Kidder discloses an operating unit operated by a user, wherein the controller, based on an input from the operating unit, generates information for downloading content including information indicating whether new content data is to be downloaded or upgrading data for content data already stored in the storage unit is to be downloaded (column 7, lines 36-44), and sends the information for downloading content via the sending and receiving unit (column 7, lines 36-44).

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21. As to claim 27, Kidder discloses the controller sends data indicating completion of processing via the sending and receiving unit when writing of data received by the sending and receiving unit to the storage unit is completed (column 7, lines 50-57).

***Claim Rejections - 35 USC § 103***

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claims 8-9, 17, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kidder as applied to claims 1, 10, and 18 above, and in view of what was well known in the art at the time of the invention.

24. As to claim 8, Kidder discloses the invention substantially with regard to the parent claim 1, but does not explicitly disclose when user authentication is executed; processing based on the information for downloading content is started when the user authentication succeeds. Kidder does not disclose any security measures to ensure only authorized viewers access the video clips; rather Kidder's disclosure focuses primarily on the processing of the video clips.

However, Official Notice is taken (MPEP 2144.01) that simply adding a layer of security as simple as a password to authorize a user was well known in the art at the time of the invention to one of ordinary skill in the art. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to take advantage of a known practice (authorizing a user before use of the system) to modify the teaching of Kidder in order to give Kidder's system some security.

25. As to claims 9, 17, and 26, Kidder discloses the invention substantially with regard to the parent claims 1, 10, and 18, but does not disclose the selected content data or the upgrading data is encrypted before the selected content data or the upgrading data is sent to the user. Kidder does not disclose any security measures to be taken with regards to the transmitted data; rather Kidder's disclosure focuses on the processing of the video clips in a generic form.

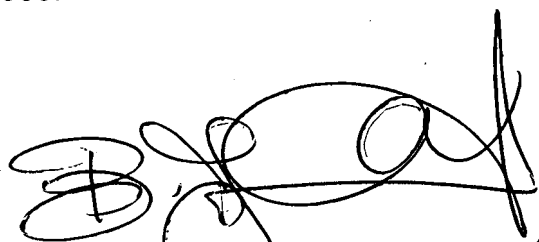
However, Official Notice is taken (MPEP 2144.01) that encrypting the transmissions between the client and server was well known in the art at the time of the invention to one of ordinary skill in the art. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to take advantage of a known practice (encrypting transmitted data) to modify the teaching of Kidder in order to give Kidder's system some privacy with regards to communications between client and server..

***Conclusion***

26. For additional prior art made of record and not relied upon and considered pertinent to applicant's disclosure see attached Notice of References Cited, Form PTO-892.
27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Dailey whose telephone number is 571-270-1246. The examiner can normally be reached on Monday thru Friday; 9:00am - 5:00pm.
28. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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29. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TJD  
6/19/2007BUNJOB JAROENCHONWANIT  
SUPERVISORY PATENT EXAMINER

6/21/7